

**IN THE CLAIMS**

1. (currently amended) An encoding/transmitting apparatus comprising:

input means for inputting data that includes ~~audio data~~  
~~and video data~~;

encoding means for encoding the data input by the input  
means; ~~audio data output control means for fading out or~~  
~~fading in the audio data before the audio data is received by~~  
~~the encoding means;~~

storage means for storing encoded data generated by the  
encoding means;

multiplexing means for multiplexing the encoded data  
stored in the storage means and transmitting the multiplexed  
data to a predetermined receiving apparatus through a network;  
and

monitoring means for monitoring a state of the network,  
and for generating a stop command and supplying the stop  
command to the multiplexing means when the state of the  
network is undesirable,

in which the encoding means ~~controls the audio data~~  
~~output control means to fade out the audio data to be encoded~~  
~~and then stops an encoding process when an area occupied by~~  
data in the storage means is larger than a predetermined  
value, and ~~controls the audio data output control means to~~  
~~fade in the audio data to be encoded and then performs the~~  
encoding process when the area occupied by the data in the  
storage means is smaller than the predetermined value,

in which the multiplexing means stops multiplexing in  
response to the stop command, and

in which, when the multiplexing means stops multiplexing in response to the stop command, the encoding means continues the encoding process until the area occupied by data in the storage means is larger than a predetermined value.

2. - 3. (cancelled)

4. (previously presented) The encoding/transmitting apparatus according to claim 1, further comprising data-transmission-amount control means for storing and controlling an amount in which the multiplexing means can transmit data.

5. (previously presented) The encoding/transmitting apparatus according to claim 1, wherein the data includes a plurality of program data items, the encoding means encodes the program data items, independently of each other, the storage means stores the encoded program data items, independently of each other, and the multiplexing means multiplexes the encoded program data items, generating one output data item.

6. (currently amended) An encoding/transmitting method comprising:

a step of inputting data that includes video data;

a step of encoding the data input in the step of inputting;

a step of storing, in storage unit, encoded data generated in the step of encoding the data; and

a step of multiplexing the encoded data stored in the storage unit by use of a multiplexing unit and transmitting the multiplexed data, to a predetermined receiving apparatus through a network; and

a step of monitoring a state of the network, and generating a stop command and supplying the stop command to

the multiplexing unit when the state of the network is undesirable,

in which ~~a step of fading out the audio data to be encoded is carried out and then~~ the encoding stops when an area occupied by data in the storage unit is larger than a predetermined value, and ~~a step of fading in the audio data to be encoded is carried out and then~~ the encoding is performed when the area occupied by the data in the storage unit is smaller than the predetermined value,

in which the multiplexing stops in response to the stop command, and

in which, when the multiplexing stops in response to the stop command, the encoding continues until the area occupied by data in the storage unit is larger than a predetermined value.

7. - 8. (cancelled)

9. (previously presented) The encoding/transmitting method according to claim 6, wherein the data includes a plurality of program data items, the program data items are encoded, independently of each other, in the step of encoding the data, the encoded program data items are stored in the storage unit, independently of each other, in the step of storing the encoded data, and the program data items are multiplexed in the step of multiplexing the encoded data, thereby generating one output data item.

10. (currently amended) An encoding/transmitting apparatus comprising:

an encoding unit to encode received data that includes ~~audio data and video data;~~

a storage unit to store encoded data encoded by the encoding unit;~~an audio-data output control unit to fade-out or fade-in the audio data before the audio data is received by the encoding unit;~~

a multiplex unit to multiplex the encoded data received from the storage unit so as to produce multiplex data and transmit the multiplexed data to a predetermined receiving apparatus through a network; and

a determining unit to monitor a state of the network, and generate a stop command and supply the stop command to the multiplex unit when the state of the network is undesirable,

in which the encoding unit ~~controls the audio-data output control unit to fade-out the audio data to be encoded and then~~ stops an encoding process when an area occupied by data in the storage unit is larger than a predetermined value, and ~~controls the audio-data output control unit to fade-in the audio data to be encoded and then~~ performs the encoding process when the area occupied by the data in the storage unit is smaller than the predetermined value,

in which the multiplex unit stops multiplexing in response to the stop command, and

in which, when the multiplex unit stops multiplexing in response to the stop command, the encoding unit continues the encoding process until the area occupied by data in the storage unit is larger than a predetermined value.

11. (new) The encoding/transmitting apparatus according to claim 1, wherein the input means inputs data that includes audio data, and the encoding/transmitting apparatus further comprises audio-data output control means for fading-out or fading-in the audio data before the audio data is received by the encoding means,

in which the encoding means controls the audio-data output control means to fade-out the audio data to be encoded and then stops an encoding process when an area occupied by data in the storage means is larger than a predetermined value, and the encoding means controls the audio-data output control means to fade-in the audio data to be encoded and then performs the encoding process when the area occupied by the data in the storage means is smaller than the predetermined value.

12. (new) The encoding/transmitting method according to claim 6, wherein a step of fading-out the audio data to be encoded is carried out and then the encoding stops when an area occupied by data in the storage unit is larger than a predetermined value, and a step of fading-in the audio data to be encoded is carried out and then the encoding is performed when the area occupied by the data in the storage unit is smaller than the predetermined value.

13. (new) The encoding/transmitting apparatus according to claim 10, wherein the encoding unit encodes received data that includes audio data and the video data, and the encoding/transmitting apparatus further comprises an audio-data output control unit to fade-out or fade-in the audio data before the audio data is received by the encoding unit, in which the encoding unit controls the audio-data output control unit to fade-out the audio data to be encoded and then stops an encoding process when an area occupied by data in the storage unit is larger than a predetermined value, and controls the audio-data output control unit to fade-in the audio data to be encoded and then performs the encoding process when the area occupied by the data in the storage unit is smaller than the predetermined value.